

SENATE BILL 902

G2, G1

11r3006
CF HB 1089

By: **Senator Miller**

Introduced and read first time: February 21, 2011

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Public Ethics Requirements – Limitations on**
3 **Contributions to Slates Containing the County Executive or a Member of the**
4 **County Council and on Participation of County Council Members in Land**
5 **Use Applications**

6 FOR the purpose of prohibiting payments to be made, under certain circumstances, to
7 slates that include a member of the County Council for Prince George's County
8 or the Prince George's County Executive during the pendency of certain
9 applications; expanding a prohibition on a member of the County Council voting
10 or participating in certain applications if the member received certain payments
11 during a certain period by including payments to certain slates; repealing a
12 provision that allows a member to participate in certain applications if a certain
13 affidavit is not filed; providing for the prospective application of this Act; and
14 generally relating to the expansion of public ethics requirements in Prince
15 George's County.

16 BY repealing and reenacting, without amendments,
17 Article – State Government
18 Section 15–829(a), (d), (f), (l), and (p)
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – State Government
23 Section 15–829(m) and 15–831
24 Annotated Code of Maryland
25 (2009 Replacement Volume and 2010 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – State Government**

2 15–829.

3 (a) In this Part IV the following words have the meanings indicated.

4 (d) “Application” means:

5 (1) an application for a zoning map amendment, special exception,
6 departure from design standards, revision to a special exception site plan, expansion of
7 a legal nonconforming use, revision to a legal nonconforming use site plan, or a
8 request for a variance from the zoning ordinance;9 (2) an application to approve a comprehensive design plan, a
10 conceptual site plan, or a specific design plan; or11 (3) participation in adopting and approving an area master plan or
12 sectional map amendment by appearance at a public hearing, filing a statement in the
13 official record, or other similar communication to a member of the County Council or
14 the Planning Board, where the intent is to intensify the zoning category applicable to
15 the land of the applicant.16 (f) “Candidate” means a candidate for election to the County Council who
17 becomes a member.18 (l) “Member of the County Council” includes any candidate or person duly
19 elected or appointed who takes the oath of office as a member of the County Council
20 for Prince George’s County and who thereby serves on the District Council.21 (m) “Payment” means any payment or contribution of money or property or
22 the incurring of any liability or promise of anything of value to a treasurer of a
23 candidate [or of], a **CANDIDATE’S** continuing political committee, **OR A SLATE TO**
24 **WHICH THE CANDIDATE BELONGS.**25 (p) “Slate” means a group, combination, or organization of candidates created
26 under the provisions of the Election Law Article.

27 15–831.

28 (a) An applicant or agent of the applicant may not make a payment to a
29 member of the County Council, [or to] the County Executive, **OR A SLATE THAT**
30 **INCLUDES THE COUNTY EXECUTIVE OR A MEMBER OF THE COUNTY COUNCIL,**
31 during the pendency of the application.32 (b) (1) After an application has been filed, a member of the County
33 Council may not vote or participate in any way in the proceeding on the application if
34 the member’s treasurer or [the member’s] continuing political committee, **OR A SLATE**

1 TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH
2 PERIOD PRECEDING THE FILING OF THE APPLICATION, received a payment[,]
3 during the 36-month period before the filing of the application or during the pendency
4 of the application[,] from any of the applicants or the agents of the applicants.

5 (2) A member is not subject to the requirements of paragraph (1) of
6 this subsection if:

7 (i) [as to the application, no applicant or agent has filed an
8 affidavit naming the member or the member's continuing political committee as the
9 recipient of a payment; or

10 (ii) 1.] a transfer to the member's treasurer [or], A
11 continuing political committee, **OR A SLATE TO WHICH THE MEMBER BELONGS OR**
12 **BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE**
13 **APPLICATION** was made by a political action committee to which an applicant or
14 agent had made a payment;

15 [2.] (II) the applicant or agent made the payment to the
16 political action committee without any intent to subvert the purposes of this subtitle;

17 [3.] (III) the applicant's or agent's payment to the
18 political action committee, and the political action committee's transfer, are disclosed
19 in an affidavit; and

20 [4.] (IV) the transfer is returned to the political action
21 committee by the member, or the payment is returned to the applicant or agent by the
22 political action committee.

23 (c) (1) After an application is filed, the applicant shall file an affidavit,
24 under oath, stating to the best of the applicant's information, knowledge, and belief
25 that:

26 (i) 1. during the 36-month period before the filing of the
27 application and during the pendency of the application, the applicant has not made
28 any payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S**
29 **TREASURER, A MEMBER'S OR CANDIDATE'S** continuing political committee, **OR A**
30 **SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING**
31 **THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

32 2. if any such payment was made, discloses the name of
33 the member to whose treasurer[,]
34 or [whose] continuing political committee, **OR**
35 **SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE**
36 **36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** the payment
was made;

1 (ii) 1. during the 36-month period before the filing of the
2 application and during the pendency of the application, the applicant has not solicited
3 any person or business entity to make a payment to [the treasurer of a candidate or] A
4 **MEMBER'S OR CANDIDATE'S TREASURER, A MEMBER'S OR CANDIDATE'S**
5 continuing political committee, **OR A SLATE TO WHICH THE MEMBER OR**
6 **CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD**
7 **PRECEDING THE FILING OF THE APPLICATION;** or

8 2. if any such solicited payment was made, discloses the
9 name of the member to whose treasurer[,] or [whose] continuing political committee,
10 **OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE**
11 **36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** the payment
12 was made; and

13 (iii) 1. during the 36-month period before the filing of the
14 application and during the pendency of the application, a member of the applicant's
15 household has not made a payment to [the treasurer of a candidate or] A **MEMBER'S**
16 **OR CANDIDATE'S TREASURER, A MEMBER'S OR CANDIDATE'S** continuing political
17 committee, **OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR**
18 **BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE**
19 **APPLICATION;** or

20 2. if such a payment has been made, discloses the name
21 of the member to whose treasurer[,] or [whose] continuing political committee, **OR**
22 **SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE**
23 **36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** the payment
24 was made.

25 (2) The affidavit may be filed any time prior to consideration of the
26 application by the District Council, at the discretion of the applicant. However, in no
27 event may the affidavit be filed less than 30 calendar days prior to consideration by
28 the District Council of the application.

29 (3) A supplemental affidavit shall be filed whenever a payment is
30 made after the original affidavit was filed.

31 (4) An applicant has no obligation to make any representations
32 pertaining to the actions of anyone other than that applicant under the affidavit. In
33 the case of business entities, anyone with authority to act on behalf of, and bind, the
34 business entity may execute an affidavit on behalf of the business entity itself.

35 (5) The only disclosures required under the affidavit are those
36 involving individuals or business entities that would be subject to the provisions of
37 this subtitle.

38 (d) (1) An agent shall file an affidavit in an application only if:

1 (i) the agent has acted on behalf of the applicant with regard to
2 the specific application; and

3 (ii) during the 36-month period before the filing of the
4 application and during the pendency of the application, and after becoming an agent of
5 the applicant:

6 1. the agent has made a payment to a **MEMBER OR**
7 **candidate [or], A MEMBER'S OR CANDIDATE'S** continuing political committee, **OR A**
8 **SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING**
9 **THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

10 2. the agent has solicited any person to make a payment
11 to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER,** a
12 **MEMBER'S OR CANDIDATE'S** continuing political committee, **OR A SLATE TO WHICH**
13 **THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH**
14 **PERIOD PRECEDING THE FILING OF THE APPLICATION.**

15 (2) Notwithstanding the provisions of paragraph (1)(ii) of this
16 subsection, an agent shall disclose in the affidavit a payment made before becoming an
17 agent if the agent:

18 (i) made the payment by prearrangement or in coordination
19 with one or more applicants; or

20 (ii) acted as an agent as to any other application filed during the
21 36-month period.

22 (e) (1) Except as provided in paragraph (2) of this subsection, a
23 contributor, a member of the County Council, or a political action committee is subject
24 to this Part IV if a payment is made by the contributor or a transfer is made by the
25 political action committee to:

26 (i) the candidate; [or]

27 (ii) the candidate's continuing political committee; **OR**

28 **(III) A SLATE TO WHICH THE MEMBER OR CANDIDATE**
29 **BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE**
30 **FILING OF THE APPLICATION.**

31 (2) The provisions of this Part IV do not apply to:

32 (i) [any payment or transfer to a slate, unless the slate is
33 composed solely of candidates or members of the County Council;

1 (ii)] any transfer to the continuing political committee of a
2 candidate or member of the County Council by the continuing political committee of
3 another individual running for elective office; or

4 [(iii)] (II) a payment or transfer to the Prince George's County
5 Central Committee, or State Central Committee, of a political party, even if the
6 Central Committee supports a candidate.

7 (3) A person may not make a payment in violation of this Part IV.

8 (f) An applicant or agent may not take any action, directly or indirectly, with
9 the intent to circumvent the intent of this subtitle.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
11 construed to apply only prospectively and may not be applied or interpreted to prohibit
12 a member of the Prince George's County Council from participating in a district
13 council proceeding based on a payment made before January 1, 2011.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2011.